

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CASE NO. 05-11761-RCL

ROBERT DOWNER and  
NANCY DOWNER,

Plaintiff,

v.

TOWN OF BURLINGTON, ROBERT  
MERCIER, individually and in his capacity as  
Town Manager, FRANCIS HART,  
individually and in his capacity as Chief of  
Police, and HARRY SAWYER,

Defendants.

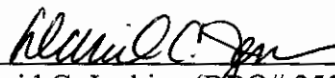
DEFENDANTS' MOTION TO  
DISMISS COMPLAINT

Now come the Defendants, Town of Burlington (hereinafter, "the Town"), Robert Mercier (hereinafter, "Mercier"), Francis Hart (hereinafter, "Hart"), and Harry Sawyer (hereinafter, "Sawyer"), collectively "the Defendants," and hereby move this Honorable Court to dismiss the Complaint in its entirety.

As grounds for this motion, the Defendants assert that the Complaint fails to state a claim for which relief may be granted, as more particularly set forth in the accompanying memorandum of law.

WHEREFORE, the Defendants move that the Complaint be dismissed in its entirety.

DEFENDANTS,  
TOWN OF BURLINGTON, ROBERT  
MERCIER, FRANCIS HART, and HARRY  
SAWYER,  
By their attorneys,



David C. Jenkins (BBO# 251000)  
Brian M. Maser (BBO# 655667)  
Kopelman and Paige, P.C.  
31 St. James Avenue  
Boston, MA 02116  
(617) 556-0007

Date: November 28, 2005

266650/METG/0651

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the  
above document was served upon the  
attorney of record for each other party  
by mail hand on 11-28-05

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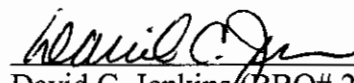
v.

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LOCAL RULE 7.1(A)(2)  
CERTIFICATE OF COMPLIANCE

Now comes the undersigned defense counsel, and hereby certifies that on November 28, 2005, he conferred, via telephone, with counsel for the plaintiffs in a good faith effort to resolve or narrow the issues set forth in Defendants' Motion To Dismiss.

  
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David C. Jenkins (BBO# 251000)  
Kopelman and Paige, P.C.  
31 St. James Avenue  
Boston, MA 02116  
(617) 556-0007

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